IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22807 of 2004

Between:

1 Vemasani Sivarama Naidu, S/o.Ramanaidu,
R/o.Acharlaparlapalli (V), Ozili (M), Nellore District.
2 Vemasani Changaiah Naidu, S/o. Lakshum Naidu,
R/o.Acharlaparlapalli (V), Ozili (M), Nellore District.
3 Kasumarthi Chandramouli Naidu, S/o.Chinna Subba Naidu,
R/o.Acharlaparlapalli (V), Ozili (M), Nellore District.
4 Pemmasani Syamalmma, W/o.Sukumar,
R/o.Thiruttani, Thiruvalluru PO, Chennai.
5 Kasumarthi Venkatasubba Naidu, S/o.China Subba Naidu,
R/o.Acharlaparlapalli (V), Ozili (M), Nellore District.

..... PETITIONER(S)

AND

1 The District Collector, Nellore District, Nellore.
2 The Revenue Divisional officer, Gudur, Nellore District.
3 The Mandal Revenue officer, Ozili (M), Nellore District.

..RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction, order or orders more particularly one in the nature of writ of mandamus declaring the action of the respondents in preventing us from lifting the water from our own wells situated in Sy.Nos.43/2 & 43/3 of Achalaparlapalli village, Ozili (M), Nellore District is illegal, arbitrary, malafidy, without authority of power, contrary to Art.14, 19(1)(g) and 21 of the Constitution of India and violative of principles of natural justice and consequentially direct the respondents not to interfere with the utilization of the irrigation facility from the wells situated in Sy.No.43/2 & 43/3 of Acharlpalarlapalli Village, Ozili (M), Nellore District in the interest of justice and pass such other order or orders.

Counsel for the Petitioner:MR.A.CHANDRAIH NAIDU

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the stage of admission made the following :

ORDER:

The petitioners claim to be owners of different extents of lands in survey nos. 44/1, 48/1, 45/4 adjacent to Acharlaparpalli tank which is situated in survey no. 43 , Acharlaparlapalli village and cultivating the same by drawing the water from the Acharlaparpalli PWD tank. It is also stated that the petitioners' forefathers dug wells in Survey Nos. 43/2 and 43/3 and whenever the Acharlaparpalli tank is dried up, they are cultivating by using the well water. It is further stated that due to recent drought situation prevailing in the area, the petitioners are forced to cultivate their lands through the above wells. The grievance of the petitioners is that due to political pressure the third respondent, in the first week of November, 2004 directed them not to draw water from the subject wells, on the ground that if the well water is utilized, the tank will be dried up. The petitioners stated to have made representation to the Joint Collector on 27-11-2004. It is further alleged that no orders were passed on the representation dated 27-11-2004 and again on
4-12-2004 the Mandal Revenue Officer, deputed his staff to prevent them from drawing water from their own wells. Hence, the writ petition.

The learned Government Pleader for Revenue, on instructions, submitted that admittedly the wells are private wells of the petitioners submerged in Acharlaparlapalli PWD tank and due to objections of some of the ayacutdars of said tank, the Mandal Revenue Officer has orally directed the petitioners not to draw the water from the wells.

Heard the learned counsel for petitioner and learned Government Pleader for Revenue. Both counsel agreed for disposal of the writ petition at the stage of admission with a direction to respondents to dispose of the representation of the petitioners.

Since the wells in question are stated to be private wells and representation of the petitioners dated 27-11-2004 is pending consideration before the Joint

Collector, the writ petition is disposed of directing the Joint Collector to pass appropriate orders on the representation of the petitioners dated 27-11-2004 in accordance with law expeditiously, within a period of one week from today. If for any reason, the Joint Collector is not in a position to pass final orders, he may call for a report from the concerned Mandal Revenue Officer and take an interim decision whether to permit the petitioners to draw the water from the subject wells or not, so as to protect the standing crops. Such interim orders shall be passed on or before 20-12-2004.

Subject to above observations, the writ petition is disposed of at the stage of admission.

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N.V.RAMANA,J

16TH DEC, 2004

TVK

NOTE: Office to mark a copy of this order to Joint Collector, Nellore District

Issue copy of order today.

B/o.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, Nellore District, Nellore.
2 The Revenue Divisional officer, Gudur, Nellore District.
3 The Mandal Revenue officer, Ozili (M), Nellore District.

4.. The Joint Collector, Nellore District

5.2CCs to G.P. for Revenue, High Court of A.P. Buildings, Hyderabad.

6.2CD copies

7.2CCs to